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IFW 1652

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants	:	Higuchi et al.	Examiner: Maryam Monshipouri
Serial No.	:	10/086,913	Group Art Unit: 1652
Filed	:	March 1, 2002	Customer No. : 21003
For	:	PREVENTION AND TREATMENT OF MYCOPLASMA-ASSOCIATED DISEASES	

COMMENT ON STATEMENTS OF REASONS FOR ALLOWANCE

I hereby certify that this paper is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Patents, Box 1450, Alexandria, VA 22313-1450.

April 6, 2006
Date of Deposit

Lisa B. Kole
Attorney Name

35,225
Registration No.

Signature

April 6, 2006
Date of Signature

Sir:

Attached to the Notice of Allowability dated March 21, 2006 is an Interview Summary filed October 13, 2005 which indicates that the Examiner had brought reference Tsai et al., 1995, Proc. Natl. Acad. Sci. U.S.A. 92(22):10197-10201 ("Tsai") to the attention of the undersigned as 102(b) art, in response to which the undersigned gave authority to cancel claims 16, 21 and 22. In a Notice of Allowance dated October 24, 2005, to which the Interview Summary was also attached, Tsai was characterized as teaching that "mycopplasma induced ontogenesis [*sic*] may be inhibited by antibiotics"(after the Notice of Allowance dated October 24, 2005, a Request for Continued Examination was filed to make various references of record).

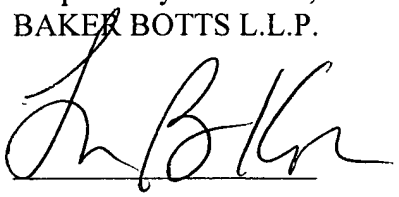
To clearly state Applicants position for the record, Tsai is not regarded by Applicants as "102(b) art." The claims at issue (*e.g.*, claims 16, 21 and 22) relate to methods of treating undesirable cell proliferation in a subject using an antibiotic agent. In contrast, Tsai administers antibiotic to a cell culture infected with mycoplasma, rather than to a subject, so as to eliminate the effect of continuous infection and reveal residual effects of infection on cells. Tsai reports that chronic infection of cells in culture with mycoplasma was associated with the development of certain characteristics associated with malignant transformation, including chromosome alterations and tumorigenicity in mice.

By failing to teach administration of antibiotic to a mycoplasma-infected subject, Tsai fails to anticipate claims 16, 21 or 22. Tsai concludes with a paragraph which indicates that an actual link between mycoplasma infection and development of human cancers remains hypothetical, the last sentence of the Discussion section of Tsai being:

> The potential biological significance of parasitism by prokaryotes like mycoplasmas may have just begun to be appreciated.

Accordingly, in addition to having novelty, claims 16, 21 and 22 would not be obvious in view of Tsai. Applicants reserve the right to pursue the subject matter of claims 16, 21 and 22 in other patent applications.

Respectfully submitted,
BAKER BOTTS L.L.P.



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